

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL A. EALEY,

Defendant.

**4:08CR3096**

**MEMORANDUM AND ORDER**

Pursuant to § 3582(c)(1)(A), a district court may consider a defendant's motion for compassionate release only "after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier." Thus, the defendant should allege either that:

1. The defendant pursued all available administrative means to appeal the BOP's refusal to move for the defendant's release, or

2. The warden was presented with a request to move for the defendant's release more than 30 days ago.

The defendant in this case has made no allegations regarding this exhaustion requirement. See Filing no. 58. In the exercise of my discretion, I will give the defendant time to amend his motion to show that he has complied with the exhaustion requirement.

IT IS ORDERED that the defendant is given until August 24, 2020, to file an amended motion showing that one of the two prerequisites identified above

have been satisfied. Failure to do so will result in the dismissal of this motion without prejudice.

Dated this 23rd day of July, 2020.

BY THE COURT:



Richard G. Kopf  
Senior United States District Judge